

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-8256

SWINDELL D. WHEELER,

Plaintiff - Appellant,

v.

TONITA LEE, Correctional Officer, Evans Correctional
Institution; PARVIN PATTELL, Dr.; CORRECTIONAL MEDICAL
SYSTEMS, Evans Correctional Institution,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Henry F. Floyd, District Judge.
(4:09-cv-01633-HFF)

Submitted: March 30, 2010

Decided: April 5, 2010

Before WILKINSON, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Swindell D. Wheeler, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Swindell D. Wheeler seeks to appeal the district court's order denying relief on his 42 U.S.C. § 1983 (2006) complaint. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 209 (2007).

The district court's order was entered on the docket on September 21, 2009. The notice of appeal was filed on October 30, 2009.* Because Wheeler failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED